

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/691,113
Cnfrm. No.	:	5325
First Named Inventor	:	Boris Y. Shekunov
Filed	:	October 22, 2003
Title	:	METHOD AND APPARATUS FOR PRODUCING PARTICLES VIA SUPERCRITICAL FLUID PROCESSING
TC/A.U.	:	1723
Examiner	:	Joseph W. Drodge
Docket No.	:	FER-14651

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. §1.181(a)**

Sir:

On January 29, 2007, the Board of Patent Appeals and Interferences rendered its Decision on Appeal in this matter (Appeal 2007-0414). In the Decision, the Board affirmed the Examiner's rejection of claims 1-19 and 21-37, which are all the claims pending in the application.

In accordance with 37 C.F.R. §1.197(b)(2), the date of termination of proceedings on the present application should be the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit expires. This period is 60 days from the date of the Decision on Appeal. See 35 U.S.C. §142 and M.P.E.P. §1214.06. Thus, this application should not have been terminated until March 29, 2007.

Nevertheless, on February 6, 2007, the Examiner mailed a Notice of Abandonment, a copy of which is attached hereto. The Notice of Abandonment indicates that the application is abandoned in view of the decision of the Board rendered on January 29, 2007 because the period for seeking court review has expired and there are no allowed claims. This is erroneous.

Pursuant to 37 C.F.R. §1.181(a), applicants hereby petition the Director to withdraw the holding of abandonment. No fee should be required for this petition.

Respectfully submitted,
RANKIN, HILL, PORTER & CLARK, L.L.P.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,113

10/22/2003

Boris Y. Shekunov

FER-14651

5325

7609 7590 02/06/2007
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EXAMINER

DRODGE, JOSEPH W

ART UNIT

PAPER NUMBER

1723

MAIL DATE

DELIVERY MODE

02/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

10/691,113

Examiner

Joseph W. Drodge

Applicant(s)

SHEKUNOV ET AL.

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on ____.
- (a) ☐ A reply was received on ____ (with a Certificate of Mailing or Transmission dated ____), which is after the expiration of the period for reply (including a total extension of time of ____ month(s)) which expired on ____.
- (b) ☐ A proposed reply was received on ____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- (c) ☐ A reply was received on ____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
- (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- (a) ☐ The issue fee and publication fee, if applicable, was received on ____ (with a Certificate of Mailing or Transmission dated ____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
- (b) ☐ The submitted fee of \$ ____ is insufficient. A balance of \$ ____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ ____.
- (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
- (a) ☐ Proposed corrected drawings were received on ____ (with a Certificate of Mailing or Transmission dated ____), which is after the expiration of the period for reply.
- (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☒ The decision by the Board of Patent Appeals and Interference rendered on 29 January 2007 and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Joseph Drodge
JOSEPH DRODGE
PRIMARY EXAMINER

JWD
30 January 2007

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.